

where productive activities such as catching or canning fish are carried on is considered a producing establishment for purposes of section 12(a).

(2) Frequently, questions arise as to what should be considered a single establishment. No hard and fast rule can be laid down which will fix the area of all establishments. Accordingly, a determination of the area contained in a single establishment must be based upon the facts of each individual situation. Facts which are particularly pertinent in this connection, however, are those which relate to the physical characteristics and the manner of operation and control of the business. Sometimes, an establishment may extend over an area of several square miles as is common with farms, logging enterprises, mines, and quarries. On the other hand, it may be confined to a few square feet. A typical illustration of this is a loft building that houses the workshops of hundreds of independent manufacturing firms. Each of the workshops is, for purposes of this section, a separate establishment.

(3) Similar principles are applicable in determining whether several buildings located on the same premises constitute one establishment or more than one. For example, where several factory buildings are located on the same premises and owned and operated by the same person, they are generally to be considered as a single establishment. On the other hand, factory buildings located on the same premises, but owned and operated by different persons, will not ordinarily be treated as a single establishment. Where the several factories, however, are engaged in a joint productive enterprise, they may constitute a single establishment. This is the case, for example, where a large shipyard contains the plants of a number of subcontractors who are engaged in making parts or equipment for the boats that are built in the yard.

(b) The phrase "situated in the United States" is construed to include any of the 50 States or the District of Columbia or any Territory or possession of the United States.

§ 570.110 "In or about".

(a) Section 12(a) excludes from the channels of interstate commerce goods

produced in an establishment "in or about" which oppressive child labor has been employed. In a great many situations it is obviously easy to determine whether a minor is employed "in" an establishment. Thus, he is so employed where he performs his occupational duties on the premises of the producing establishment. Furthermore, a minor is also considered as employed in an establishment where he performs most of his duties off the premises but is regularly required to perform certain occupational duties in the establishment, such as loading or unloading a truck, checking in or out, or washing windows. This is true in such cases even though the minor is employed by someone other than the owner or operator of the particular establishment. On the other hand, a minor is not considered to be employed in an establishment other than his employer's merely because such establishment is visited by him for brief periods of time and for the sole purpose of picking up or delivering a message or other small article.

(b) If, in the light of the statements in paragraph (a) of this section, the minor cannot be considered as employed in the establishment, he may, nevertheless, be employed "about" it if he performs his occupational duties sufficiently close in proximity to the actual place of production to fall within the commonly understood meaning of the term "about." This would be true in a situation where the foregoing proximity test is met and the occupation of the minor is directly related to the activities carried on in the producing establishment, in this connection, occupations are considered sufficiently related to the activities carried on in the producing establishment to meet the second test above at least where the requisite relationship to production of goods exists within the meaning of section 3(j) of the Act.²⁰ By way of example, a driver's helper employed to assist in the distribution of the products of a bottling company who regularly boards the delivery truck immediately outside the premises of the bottling plant is considered employed "in or about" such establishment, without

²⁰ See part 776 (bulletin on coverage of the wage and hours provisions) of this title.

regard to whether he ever enters the plant itself. On the other hand, employees working entirely within one establishment are not considered to be employed "in or about" a wholly different establishment occupying separate premises and operated by another employer. This would be true even though the two establishments are contiguous. But in other situations the distance between the producing establishment and the minor's place of employment may be a decisive factor. Thus, a minor employed in clearing rights-of-way for power lines many miles away from the power plant cannot well be said to be employed "in or about" such establishment. In view of the great variety of establishments and employments, however, no hard and fast rule can be laid down which will once and for all distinguish between employments that are "about" an establishment and those that are not. Therefore, each case must be determined on its own merits. In determining whether a particular employment is "about" an establishment, consideration of the following factors should prove helpful: (1) Actual distance between the producing establishment and the minor's place of employment; (2) nature of the establishment; (3) ownership or control of the premises involved; (4) nature of the minor's activities in relation to the establishment's purpose; (5) identity of the minor's employer and the establishment's owner; (6) extent of control by the producing establishment's owner over the minor's employment.

§570.111 Removal "within 30 days".

According to section 12(a) goods produced in an establishment in or about which oppressive child labor has been employed are barred as "hot goods" from being shipped or delivered for shipment in commerce in the following two situations: First, if they were removed from the establishment while any oppressive child labor was still being employed in or about it; second, if they were removed from an establishment in or about which oppressive child labor was no longer employed but less than 30 days had then elapsed since any such employment of oppressive child labor came to an end. Once any

goods have been removed from a producing establishment within the above-mentioned thirty-day period, they are barred at any time thereafter from being shipped or delivered for shipment in commerce so long as they remain "goods" for purposes of the Act.²¹ Goods are considered removed from an establishment just as soon as they are taken away from the establishment as that term has been defined.²² The statute does not require that this "removal" from the establishment be made for the purpose or in the course of a shipment or delivery for shipment in commerce. A "removal" within the meaning of the statute also takes place where the goods are removed from the establishment for some other purpose such as storage, the granting of a lien or other security interest, or further processing.

[16 FR 7008, July 20, 1951, as amended at 23 FR 6240, Aug. 14, 1958. Redesignated at 28 FR 1634, Feb. 21, 1963. Redesignated and amended at 36 FR 25156, Dec. 29, 1971]

COVERAGE OF SECTION 12(c)

§570.112 General.

(a) Section 12(c) of the Act provides as follows:

No employer shall employ any oppressive child labor in commerce or in the production of goods for commerce or in an enterprise engaged in commerce or in the production of goods for commerce.

(b) This provision, which was added by amendments of 1949 and 1961 to the Act, broadens child labor coverage to include employment in commerce. Moreover, it establishes a direct prohibition of the employment of oppressive child labor in commerce or in the production of goods for commerce. The legislative history pertaining to this

²¹ However, section 12(a) contains a provision relieving innocent purchasers from liability thereunder provided certain conditions are met. For a discussion of this provision, see §570.128.

Also, section 15(a)(1) relieves any common carrier from liability under the Act for the transportation in commerce in the regular course of its business of any goods not produced by such common carrier.

²² For a discussion of the meaning of "establishment," see §570.109.

²³ [Reserved]